

The Comprehensive Shoreland Protection Act

Statute

RSA 483-B

Pages 1-16

Rules

Env-Ws 1400

Pages 17-26

Index

Pages 27-30

2002



The Comprehensive Shoreland Protection Act

New Hampshire Department of Environmental Services

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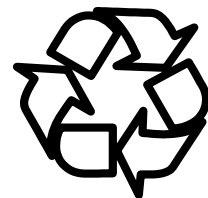
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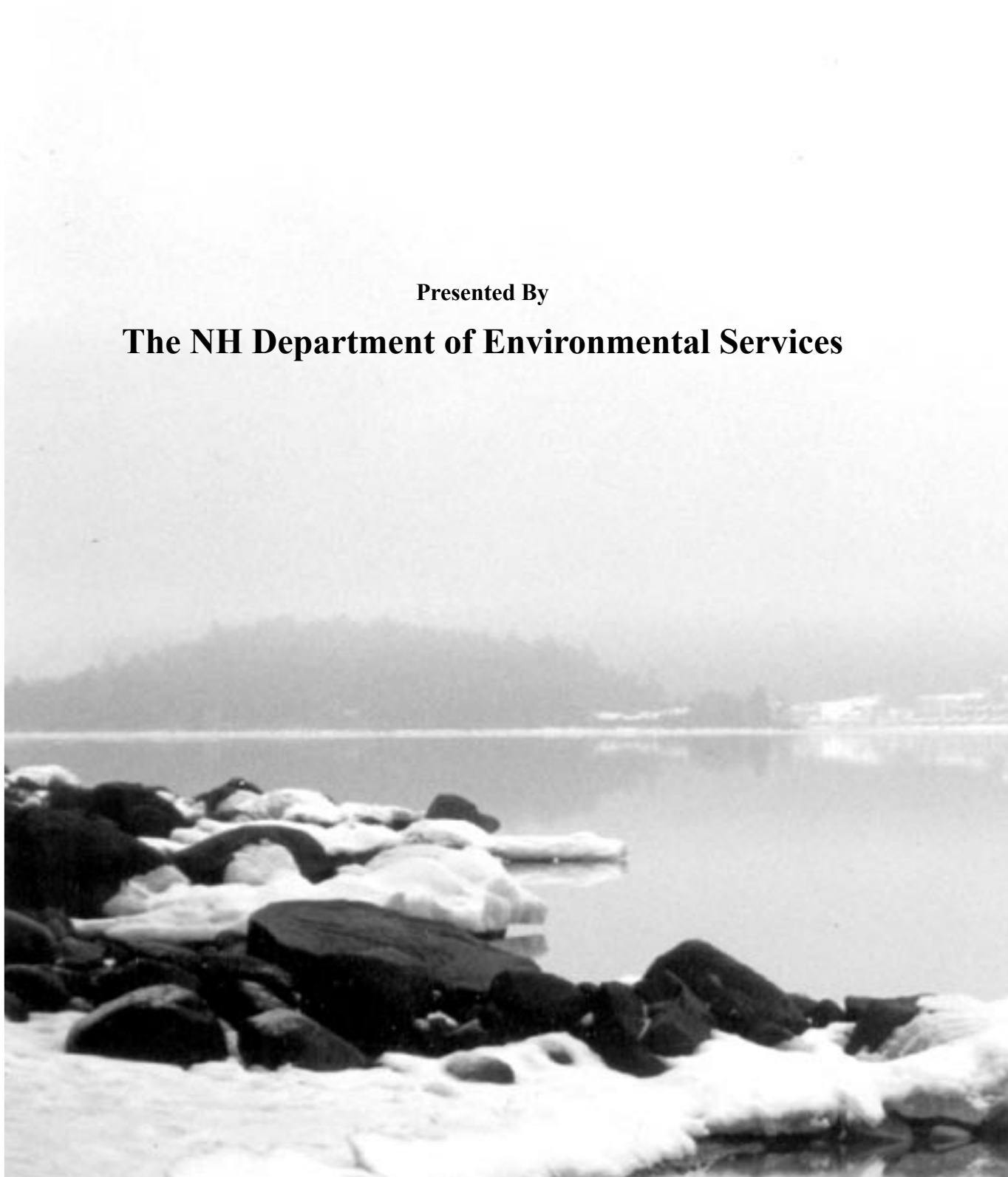
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Presented By

The NH Department of Environmental Services



Minimum Shoreland Protection Standards

LIMITS WITHIN THE PROTECTED SHORELAND 250 Feet

Prohibited Uses (RSA 483-B:9, II)

- Establishment/expansion of salt storage yards, auto junk yards, solid waste & hazardous waste facilities.
- Use low phosphate, slow release nitrogen fertilizer from 250 feet to 25 feet.

Uses Requiring State Permits

- Public water supply facilities (RSA 483-B:9, III)
- Public water & sewage treatment facilities (RSA 483-B:9, IV)
- Public utility lines (RSA 483-B:9, IV-b)
- Existing solid waste facilities (RSA 483-B:9, IV-c)
- All activities regulated by the DES Wetlands Bureau per RSA 482-A (RSA 483-B:9, II(c))

Other Restricted Uses

- All new lots, including those in excess of 5 acres, are subject to subdivision approval by DES. (RSA 483-B:9, V(b)(1))
- Minimum lot size in areas dependent on septic systems determined by soil type. (RSA 483-B:9, V(e)(1))
- A Site Specific Permit is required whenever there is a contiguous disturbed area exceeding 50,000 square feet that is either partially or wholly within protected shoreland. (RSA 483-B:6, I(d))
- Lots for residential units in areas dependent on on-site sewage & septic systems shall be sized so as not to exceed 1 unit per 150 feet of shoreland frontage. (RSA 483-B:9, V(e)(2))

NATURAL WOODLAND BUFFER RESTRICTIONS (RSA 483-B:9, V(a)) 150 Feet

- Where existing, a natural woodland buffer must be maintained.
- A healthy, well-distributed stand of trees, saplings, shrubs, and ground covers must be maintained.
- Tree cutting limited to 50% of the basal area of trees, and 50% of the total number of saplings in a 20 year period.
- Stumps and their root systems must remain intact in the ground within 50 feet of the reference line.
- The opening for building construction is 15 feet from primary structures that are less than 50 feet from reference line.
- The opening for building construction is 25 feet from primary structures that are more than 50 feet from reference line.
- The opening for accessory structures is limited to 10 feet outward from the footprint.

NEW SEPTIC SYSTEM LEACHFIELD SETBACKS (RSA 483-B:9, V(b)(2))

- 125 feet where soil down gradient of leachfield is porous sand & gravel.
- 100 feet for soils with a restrictive layer within 18 inches of natural soil surface.
- 75 feet minimum setback from rivers.
- 75 feet where soil map indicates presence of all other soil types.

PRIMARY BUILDING LINE

- Primary structure setback 50 feet from the reference line. (RSA 483-B:9, II(B))
- Pesticide use is prohibited within 25 feet of reference line. (Pes 1001.02)
- Fertilizer use is prohibited within 25 feet of reference line. (RSA 483-B:9, II(d))
- Accessory structure setback 20 feet from the reference line. (EnvWs 1405.04)

REFERENCE LINE (RSA 483-B:4, XVII)

- For coastal waters = highest observable tide line
- For rivers = ordinary high water mark
- For natural fresh waterbodies = natural mean high water level
- For artificially impounded fresh waterbodies = water line at full pond

125 Feet

100 Feet

75 Feet

50 Feet

25 Feet

20 Feet

0 Feet



The Comprehensive Shoreland Protection Act

RSA 483-B

July 2002

Table of Contents

483-B:1 Purpose. – The general court finds that:	2
483-B:2 Minimum Standards Required:	2
483-B:3 Consistency Required:	3
483-B:4 Definitions. – In this chapter:	3
483-B:5 Enforcement by Commissioner; Duties; Woodland Buffer:	6
483-B:6 Prior Approval; Permits:	7
483-B:7 Reporting; On-Site Inspections; Local Participation:	7
483-B:8 Municipal Authority:	7
483-B:9 Minimum Shoreland Protection Standards:	8
I. The Standards in This Section	8
II. Restrictions	8
(a) Salt Storage Yards, Automobile Junk Yards, And Solid or Hazardous Waste Facilities	8
(b) Primary Structures	8
(c) Water Dependent Structures	8
(d) Fertilizer	8
III. Public Water Supply Facilities	8
IV. Public Water And Sewage Treatment Facilities	8
IV-a. Hydro Electric Facilities	8
IV-b. Public Utility Lines	9
IV-c. Existing Solid Waste Facilities	9
IV-d. Placement of Solid Waste	9
V. Minimum Standards	9
(a) Natural Woodland Buffer	9
(b) Septic Systems	9
(c) Erosion and Siltation	10
(d) Minimum Lots and Residential Development In the Protected Shoreland	10
(e) Minimum Lots And non-residential Development In The Protected Shoreland	11
(f) Common Owners	12
(g) Variances	12
483-B:10 Nonconforming Lots of Record:	12
483-B:11 Nonconforming Structures:	12
483-B:13 Public Hearing and Notice to Abutter:	13
483-B:14 Rehearings and Appeals:	13
483-B:15 Gifts, Grants and Donations:	14
483-B:16 Assistance to Municipalities; Office of State Planning:	14
483-B:17 Rulemaking:	14
483-B:18 Penalties:	15
483-B:19 Applicability:	15
483-B:20 Designated Rivers:	16

The Comprehensive Shoreland Protection Act
RSA 483-B

483-B:1 Purpose. – The general court finds that:

I. The shorelands of the state are among its most valuable and fragile natural resources and their protection is essential to maintain the integrity of public waters.

I-a. A natural woodland buffer, consisting of trees and other vegetation located in areas adjoining public waters, functions to intercept surface runoff, wastewater, subsurface flow, and deeper groundwater flows from upland sources and to remove or minimize the effects of nutrients, sediment, organic matter, pesticides, and other pollutants and to moderate the temperature of near-shore waters.

II. The public waters of New Hampshire are valuable resources held in trust by the state. The state has an interest in protecting those waters and has the jurisdiction to control the use of the public waters and the adjacent shoreland for the greatest public benefit.

III. There is great concern throughout the state relating to the utilization, protection, restoration and preservation of shorelands because of their effect on state waters.

IV. Under current law the potential exists for uncoordinated, unplanned and piecemeal development along the state's shorelines, which could result in significant negative impacts on the public waters of New Hampshire.

Source. 1991, 303:1.

483-B:2 Minimum Standards Required:

To fulfill the state's role as trustee of its waters and to promote public health, safety, and the general welfare, the general court declares that the public interest requires the establishment of standards for the subdivision, use, and development of the shorelands of the state's public waters. The development standards provided in this chapter shall be the minimum standards necessary to protect the public waters of the state of New Hampshire. These standards shall serve to:

I. Further the maintenance of safe and healthful conditions.

II. Provide for the wise utilization of water and related land resources.

III. Prevent and control water pollution.

IV. Protect fish spawning grounds, aquatic life, and bird and other wildlife habitats.

V. Protect buildings and lands from flooding and accelerated erosion.

VI. Protect archaeological and historical resources.

VII. Protect commercial fishing and maritime industries.

VIII. Protect freshwater and coastal wetlands.

IX. Control building sites, placement of structures, and land uses.

X. Conserve shoreline cover and points of access to inland and coastal waters.

The Comprehensive Shoreland Protection Act
RSA 483-B

- XI. Preserve the state's lakes, rivers, estuaries and coastal waters in their natural state.
- XII. Promote wildlife habitat, scenic beauty, and scientific study.
- XIII. Protect public use of waters, including recreation.
- XIV. Conserve natural beauty and open spaces.
- XV. Anticipate and respond to the impacts of development in shoreland areas.
- XVI. Provide for economic development in proximity to waters.

Source. 1991, 303:1. 1992, 235:1, 2. 1994, 383:1, eff. July 1, 1994.

483-B:3 Consistency Required:

- I. All state agencies shall perform their responsibilities in a manner consistent with the intent of this chapter. State and local permits for work within the protected shorelands shall be issued only when consistent with the policies of this chapter.
- II. When the standards and practices established in this chapter conflict with other local or state laws and rules, the more stringent standard shall control.
- III. All agricultural activities and operations in the state as defined in RSA 21:34-a and as governed by RSA 430, including the use of animal manure, lime, wood ash, irrigation, and the clearing of land for agricultural utilization, and other agricultural technologies, shall be exempt from the provisions of this chapter, provided such activities and operations are in conformance with the most recent best management practices determined by the United States Department of Agriculture Natural Resources Conservation Service, the United States Department of Agriculture Cooperative Extension Service and the department of agriculture, markets, and food. Persons carrying out such agricultural activities and operations in the protected shoreland shall work directly with the local representatives of the above agencies for their particular property.

Source. 1991, 303:1. 1992, 235:21. 1995, 130:8, eff. July 23, 1995; 206:2, eff. Aug. 11, 1995.

483-B:4 Definitions. – In this chapter:

- I. "Abutter" means any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term "abutter" shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration.
- II. "Accessory structure" means a structure, as defined in paragraph XXII of this section, on the same lot and customarily incidental and subordinate to the primary structure, as defined in paragraph XIV of this section; or a use, including but not limited to path, driveways, patios, any other improved surface, pump houses, gazebos, woodsheds, garages, or other outbuildings.
- III. "Basal area" means the cross sectional area of a tree measured at a height of 4-1/2 feet above

The Comprehensive Shoreland Protection Act
RSA 483-B

the ground, usually expressed in square feet per acre for a stand of trees.

IV. "Commissioner" means the commissioner of the department of environmental services or designee.

V. "Department" means the department of environmental services.

VI. "Disturbed area" means an area in which natural vegetation is removed, exposing the underlying soil.

VII. "Ground cover" means any herbaceous plant which normally grows to a mature height of 4 feet or less.

VIII. "Lot of record" means a legally created parcel, the plat or description of which has been recorded at the registry of deeds for the county in which it is located.

IX. [Repealed.]

X. "Municipality" means a city, town, village district if specifically authorized to zone by the legislature, or county in respect to unincorporated towns or unorganized places or any combination thereof pursuant to RSA 53-A.

XI. "Natural woodland buffer" means a forested area consisting of various species of trees, saplings, shrubs, and ground covers in any combination and at any stage of growth.

XI-a. "Ordinary high water mark" means the line on the shore, running parallel to the main stem of the river, established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the immediate bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas. Where the ordinary high water mark is not easily discernable, the ordinary high water mark may be determined by the department of environmental services.

XII. "Person" means a corporation, company, association, society, firm, partnership or joint stock company, as well as an individual, a state, and any political subdivision of a state or any agency or instrumentality thereof.

XIII. "Primary building line" means a setback from the reference line.

XIV. "Primary structure" means a structure as defined in paragraph XXII of this section that is central to the fundamental use of the property and is not accessory to the use of another structure on the same premises.

XV. "Protected shoreland" means, for natural, fresh water bodies without artificial impoundments, for artificially impounded fresh water bodies, and for coastal waters and rivers, all land located within 250 feet of the reference line of public waters.

XVI. "Public waters" shall include:

(a) All fresh water bodies listed in the official list of public waters published by the department

The Comprehensive Shoreland Protection Act
RSA 483-B

pursuant to RSA 271:20, II, whether they are great ponds or artificial impoundments.

(b) Coastal waters, being all waters subject to the ebb and flow of the tide, including the Great Bay Estuary and the associated tidal rivers.

(c) Rivers, meaning all year-round flowing waters of fourth order or higher, as shown on the now current version of the U.S. Geological Survey 7 1/2' topographic maps. Stream order shall be determined using the Strahler method, whereby the highest year-round streams in a watershed are first order streams, their juncture yields second order streams, the juncture of second order streams yields third order streams, et seq. A listing of the streams of fourth order and higher shall be prepared and maintained by the office of state planning and delivered to the commissioner 30 days after the effective date of this act.

XVII. "Reference line" means:

(a) For natural fresh water bodies without artificial impoundments, the natural mean high water level as determined by the Department of Environmental Services.

(b) For artificially impounded fresh water bodies with established flowage rights, the limit of the flowage rights, and for water bodies without established flowage rights, the waterline at full pond as determined by the elevation of the spillway crest.

(c) For coastal waters, the highest observable tide line, which means a line defining the furthest landward limit of tidal flow, not including storm events, which can be recognized by indicators such as the presence of a strand line of flotsam and debris, the landward margin of salt tolerant vegetation, or a physical barrier that blocks further flow of the tide.

(d) For rivers, the ordinary high water mark.

XVIII. "Removal or removed" means cut, sawed, pruned, girdled, felled, pushed over, buried, burned, killed, or otherwise destructively altered.

XVIII-a. "Repeat violation" means a violation that occurs within 3 years of notification by the department of a prior violation, as defined in RSA 483-B:18, I, whether on the same site or by the same person or entity on a second site. Each day of continuing violation after notification of that violation shall be considered a repeat violation.

XVIII-b. "Repair" means work conducted to restore an existing, legal structure by partial replacement of worn, broken, or unsound parts or to fix a specific defect, during which all of the exterior dimensions are intact and remain so during construction.

XVIII-c. "Replace in kind" means that substitution of a new structure for an existing legal structure, whether in total or in part, with no change in size, dimensions, footprint, interior square footage, and location, with the exception of changes resulting in an increase in the setback to public waters.

XVIII-d. "Replacement system" means a septic system that is not considered new construction under RSA 485-A:29-44 and rules adopted to implement it.

The Comprehensive Shoreland Protection Act
RSA 483-B

XIX. "Residential unit" means a structure, or portion thereof, providing complete and independent living facilities, including permanent facilities for living, sleeping, eating, cooking, and sanitation which are used in common by one or more persons.

XX. "Sapling" means any woody plant which normally grows to a mature height greater than 20 feet and has a diameter less than 6 inches at a point 4-1/2 feet above the ground.

XX-a. "Shoreland frontage" means the average of the distances of the actual natural shoreline footage and a straight line between property lines.

XXI. "Shrub" means any multi-stemmed woody plant which normally grows to a mature height of less than 20 feet.

XXII. "Structure" means anything built for the support, shelter or enclosure of persons, animals, goods, or property of any kind, as well as anything constructed or erected with a fixed location on or in the ground, exclusive of fences.

XXIII. "Subdivision" means subdivision as defined in RSA 672:14.

XXIV. "Tree" means any woody plant which normally grows to a mature height greater than 20 feet and which has a diameter of 6 inches or more at a point 4-1/2 feet above the ground.

XXV. "Urbanization" means the concentrated development found in the sections of towns or cities where there has been an historic pattern of intensive building for commercial or industrial use, or mixed residential, commercial, and industrial use.

XXVI. "Water dependent structure" means a structure that services and supports activities that require direct access to, or contact with the water, or both, as an operational necessity and that requires a permit under RSA 482-A, including but not limited to a dock, wharf, pier, breakwater, beach, boathouse, retaining wall, or launching ramp.

Source. 1991, 303:1. 1992, 235:3-7, 22. 1994, 383:2-5, 22, I, eff. July 1, 1994. 1996, 17:1, 2, eff. June 14, 1996; 228:65, eff. July 1, 1996.

483-B:5 Enforcement by Commissioner; Duties; Woodland Buffer:

I. The commissioner, with the advice and assistance of the office of state planning, department of resources and economic development and department of agriculture, markets, and food, shall enforce the provisions of this chapter.

II. The commissioner or his designee may, for cause, enter upon any land or parcel at any reasonable time to perform oversight and enforcement duties provided for in this chapter.

III. [Repealed.]

IV. To encourage coordination of state and local enforcement measures, the commissioner shall notify, at the time of issuance or filing, the local governing body of enforcement action undertaken by the state in respect to protected shoreland within the municipality by sending it copies of relevant administrative orders issued and pleadings filed.

The Comprehensive Shoreland Protection Act
RSA 483-B

V. The commissioner may issue an order to any person in violation of this chapter, of rules adopted under this chapter, or of any condition of a permit issued under this chapter.

Source. 1991, 303:1. 1992, 235:8, 9. 1994, 383:6, 22, II. 1995, 130:4, eff. July 23, 1995.

483-B:6 Prior Approval; Permits:

I. Within the protected shoreland, any person intending to:

(a) Engage in any earth excavation activity shall obtain all necessary local approvals in compliance with RSA 155-E.

(b) Construct a water dependent structure, alter the bank, or construct or replenish a beach shall obtain approval and all necessary permits pursuant to RSA 482-A.

(c) Install a septic system as described in RSA 483-B:9, V(b)(1)-(3) shall obtain all permits pursuant to RSA 485-A:29.

(d) Conduct an activity resulting in a contiguous disturbed area exceeding 50,000 square feet shall obtain a permit pursuant to RSA 485-A:17.

(e) Subdivide land as described in RSA 483-B:9, V(d) and (e) shall obtain approval pursuant to RSA 485-A:29.

II. In applying for these approvals and permits, such persons shall demonstrate to the satisfaction of the department that the proposal meets or exceeds the development standards of this chapter. The department shall grant, deny, or attach reasonable conditions to a permit listed in subparagraphs I(a)-(e), to protect the public waters or the public health, safety or welfare. Such conditions shall be related to the purposes of this chapter.

Source. 1991, 303:1. 1992, 235:10, eff. Jan. 1, 1993. 1996, 17:3, eff. June 14, 1996.

483-B:7 Reporting; On-Site Inspections; Local Participation:

The department may devise a system whereby municipal officials may voluntarily assist with the permitting process under RSA 483-B:6 and the subsequent enforcement of permit conditions, by performing certain reporting functions relative to on-site inspections. Utilization of such reports shall be at the department's discretion, but may, when appropriate, obviate the need for further on-site review by department staff.

Source. 1991, 303:1. 1992, 235:23, eff. Jan. 1, 1993.

483-B:8 Municipal Authority:

I. Municipalities may adopt land use control ordinances relative to all protected shorelands which are more stringent than the minimum standards contained in this chapter.

II. Municipalities are encouraged to adopt land use control ordinances for the shorelands of water bodies and water courses other than public waters.

The Comprehensive Shoreland Protection Act
RSA 483-B

III. Municipalities in which protected shoreland is situated may enforce the provisions of this chapter by issuing cease and desist orders and by seeking injunctive relief or civil penalties as provided in RSA 483-B:18, III(a) and (b). Civil penalties and fines collected by the court shall be remitted within 14 days to the treasurer of the municipality prosecuting said violations, for the use of the municipality. Any municipality electing to enforce the provisions of this chapter shall send copies of any pleading to the attorney general at the time of filing. Municipalities bordering the same water body are encouraged to employ jointly a single code enforcement officer to monitor compliance.

IV. The authority granted to municipalities under this chapter shall not be interpreted to extend to RSA 430:28-48.

V. Municipalities bordering the same water body are encouraged to employ jointly a single code enforcement officer to monitor compliance.

Source. 1991, 303:1. 1992, 235:11, eff. Jan. 1, 1993.

483-B:9 Minimum Shoreland Protection Standards:

I. The standards in this section are designed to minimize shoreland disturbance so as to protect the public waters, while still accommodating reasonable levels of development in the protected shoreland. Development outside the protected shoreland shall conform to local zoning and local ordinances and shall not be subject to standards established in this chapter.

II. Within the protected shoreland the following restrictions shall apply:

(a) The establishment or expansion of salt storage yards, automobile junk yards, and solid or hazardous waste facilities shall be prohibited.

(b) Primary structures shall be set back behind the primary building line which is 50 feet from the reference line.

(c) A water dependent structure, meaning one which is a dock, wharf, pier, breakwater, or other similar structure, or any part thereof, built over, on, or in the waters of the state, shall be constructed only as approved by the department, pursuant to RSA 482-A.

(d) No fertilizer, except limestone, shall be used within 25 feet of the reference line of any property. Twenty-five feet beyond the reference line, low phosphate, slow release nitrogen fertilizer or limestone, may be used on lawns or areas with grass.

III. Public water supply facilities, including water supply intakes, pipes, water treatment facilities, pump stations, and disinfection stations shall be permitted by the commissioner as necessary, consistent with the purposes of this chapter and other state law. Private water supply facilities shall not require a permit.

IV. The placement and expansion of public water and sewage treatment facilities shall be permitted by the commissioner as necessary, consistent with the purposes of this chapter and other state law.

The Comprehensive Shoreland Protection Act
RSA 483-B

IV-a. Hydro electric facilities, including, but not limited to, dams, dikes, penstocks, and powerhouses, shall be recognized as water dependent, and shall be permitted by the commissioner as necessary, consistent with the purposes of this chapter and other state law.

IV-b. Public utility lines and associated structures and facilities shall be permitted by the commissioner as necessary, consistent with the purposes of this chapter and other state law.

IV-c. An existing solid waste facility which is located within 250 feet of the reference line of public waters under this chapter may continue to operate under an existing permit, provided it does not cause degradation to an area in excess of that area under permit.

IV-d. No solid waste facility shall place solid waste within 250 feet of the reference line of public waters under this chapter except as expressly permitted under RSA 483-B:9, IV-c. However, any solid waste facility may be allowed, subject to permitting conditions under RSA 149-M:9, to erect accessory structures and conduct other activities consistent with the operation of the facility within 250 feet of the reference line of public waters under this chapter, such as filling, grading and installing monitoring wells and other drainage structures as is consistent with its solid waste permit as issued by the department of environmental services. Under no circumstances shall the toe of any slope encroach within 150 feet of the reference line.

V. The following minimum standards shall apply to the protected shoreland provided that forest management not associated with shoreland development nor land conversion and conducted in compliance with RSA 227-J:9, forestry involving water supply reservoir watershed management, or agriculture conducted in accordance with best management practices, shall be exempted from the provisions of this chapter:

(a) Natural woodland buffer.

(1) Where existing, a natural woodland buffer shall be maintained within 150 feet of the reference line. The purpose of this buffer shall be to protect the quality of public waters by minimizing erosion, preventing siltation and turbidity, stabilizing soils, preventing excess nutrients and chemical pollution, maintaining natural water temperatures, maintaining a healthy tree canopy and understory, preserving fish and wildlife habitat, and respecting the overall natural condition of the protected shoreland.

(2) Within the natural woodland buffer of the protected shoreland under conditions defined in RSA 483-B:9, V, all of the following prohibitions and limitations shall apply:

(A) Not more than a maximum of 50 percent of the basal area of trees, and a maximum of 50 percent of the total number of saplings shall be removed for any purpose in a 20-year period. A healthy, well-distributed stand of trees, saplings, shrubs and ground covers and their living, undamaged root systems shall be left in place.

(B) Any person applying to the department for a septic system construction approval or alteration of terrain permit pursuant to RSA 485-A, or an excavating and dredging permit pursuant to RSA 482-A, within the protected shoreland shall include photographic documentation of the natural woodland buffer.

The Comprehensive Shoreland Protection Act
RSA 483-B

(C) Structures, as defined in RSA 483-B:4, XXII, within the natural woodland buffer shall be afforded an opening for building construction, that shall be excluded when computing the percentage limitations under subparagraph (a)(2)(A).

(D) Dead, diseased, unsafe, or fallen trees, saplings, shrubs, or ground covers may be removed. Their removal shall not be used in computing the percentage limitations under subparagraph (a)(2)(A).

(E) Stumps and their root systems which are located within 50 feet of the reference line shall be left intact in the ground, unless removal is specifically approved by the department, pursuant to RSA 482-A.

(F) Preservation of dead and living trees that provide dens and nesting places for wildlife is encouraged.

(G) Planting efforts that are beneficial to wildlife are encouraged.

(b) Septic Systems.

(1) All new lots, including those in excess of 5 acres, created within the protected shoreland are subject to subdivision approval by the department of environmental services under RSA 485-A:29.

(2) The following conditions, based on the characteristics of the receiving soil as they relate to U.S. Department of Agriculture, Natural Resources Conservation Service drainage classes, shall dictate the setback requirements for all new leaching portions of new septic systems, as follows:

(A) Adjacent to ponds, lakes, estuaries and the open oceans.

(i) Where the receiving soil downgradient of the leaching portions of a septic system is a porous sand and gravel material with a percolation rate equal to or faster than 2 minutes per inch, the setback shall be at least 125 feet from the reference line;

(ii) For soils with restrictive layers within 18 inches of the natural soil surface, the setback shall be at least 100 feet from the reference line; and

(iii) For all other soil conditions, the setback shall be at least 75 feet from the reference line.

(B) Adjacent to rivers the setback shall be no less than 75 feet.

(3) The placement of all septic tanks and leaching portions of septic systems for replacement systems shall comply with the requirements of subparagraph (b)(2), to the maximum extent feasible.

(c) Erosion and siltation

(1) All new structures, modification to existing structures, and excavation or earth moving within protected shoreland shall be designed and constructed in accordance with rules

The Comprehensive Shoreland Protection Act
RSA 483-B

adopted by the department under 541-A, relative to terrain alteration under RSA 485-A:17, to manage stormwater and control erosion and sediment, during and after construction.

(2) New structures and all modifications to existing structures within the protected shoreland shall be designed and constructed to prevent the release of surface runoff across exposed mineral soils.

(3) A permit pursuant to RSA 485-A:17, I shall be required for improved, developed, or subdivided land whenever there is a contiguous disturbed area exceeding 50,000 square feet that is either partially or wholly within protected shoreland.

(d) Minimum lots and residential development in the protected shoreland:

(1) The minimum size for new lots in areas dependent upon on-site septic systems shall be determined by soil type lot size determinations, as established by the department of environmental services under RSA485-A and rules adopted to implement it.

(2) For projects in areas dependent upon on-site sewage and septic systems, the total number of residential units in the protected shoreland, whether built on individual lots or grouped as cluster or condominium development, shall not exceed:

(A) One unit per 150 feet of shoreland frontage; or

(B) For any lot that does not have direct frontage, one unit per 150 feet of lot width as measured parallel to the shoreland frontage that lies between the lot and the reference line.

(3) No lot dependent upon an on-site septic system, having frontage on public waters, shall be created with less than 150 feet of shoreland frontage.

(4) Lots in areas serviced by municipal sewers shall conform to municipal minimum lot standards, and shall not be subject to any shoreland frontage requirement, except as provided by municipal standards.

(5) Lots and residential units outside of the protected shoreland shall not be subject to this chapter.

(e) Minimum lots and non-residential development In the protected shoreland:

(1) The minimum size for new non-residential lots in areas dependent upon on-site septic systems shall be determined by soil type lot size determinations, as set forth under rules adopted pursuant to RSA 541-A.

(2) Non-residential development requiring on-site water, sewage and septic systems shall not be constructed on lots less than 150 feet in width.

(3) Non-residential lots in areas serviced by municipal sewers shall conform to municipal minimum lot standards.

The Comprehensive Shoreland Protection Act
RSA 483-B

(4) Non-residential lots outside of the protected shoreland shall not be subject to this chapter.

(f) Common owners and residential or non-residential development. In the protected shoreland, waterfront parcels held in common by one or more owners of contiguous interior parcels may be developed but only in a manner consistent with the provisions of this chapter. Care shall be taken for the adequate provision of parking, toilet facilities, and related support systems to minimize the project's impact on the public waters.

(g) The commissioner shall have the authority to grant variances from the minimum standards of this section. Such authority shall be exercised subject to the criteria which govern the grant of a variance by a zoning board of adjustment under RSA 674:33, I(b).

Source. 1991, 303:1. 1992, 235:12-18, 28, I. 1994, 383:7-14. 1995, 32:1, eff. April 24, 1995; 206:2, eff. Aug. 11, 1995; 299:16, eff. Jan. 1, 1996. 1996, 17:4, 5, eff. June 14, 1996; 100:1, eff. May 15, 1996; 228:66, 108, eff. July 1, 1996; 251:22, eff. Aug. 9, 1996; 296:52, 53, eff. Aug. 9, 1996.

483-B:10 Nonconforming Lots of Record:

Nonconforming, undeveloped lots of record that are located within the protected shoreland shall comply with the following restrictions, in addition to any local requirements:

I. Except when otherwise prohibited by law, present and successive owners of an individual undeveloped lot may construct a single family residential dwelling on it, notwithstanding the provisions of this chapter. Conditions may be imposed which, in the opinion of the commissioner, more nearly meet the intent of this chapter, while still accommodating the applicant's rights.

II. Building on nonconforming lots of record shall be limited to single family residential structures and related facilities, including, but not limited to, docks, piers, boathouses, boat loading ramps, walkways, and other water dependent structures, consistent with state law.

Source. 1991, 303:1. 1992, 235:19. 1994, 383:15, eff. July 1, 1994.

483-B:11 Nonconforming Structures:

I. Except as otherwise prohibited by law, nonconforming structures, erected prior to July 1, 1994, located within the protected shoreland may be repaired, renovated, or replaced in kind using modern technologies, provided the result is a functionally equivalent use. Such repair or replacement may alter the interior design or existing foundation, but no expansion of the existing footprint or outside dimensions shall be permitted. An expansion that increases the sewerage load to an on-site septic system, or changes or expands the use of a septic system or converts a structure to condominiums or any other project identified under RSA 485-A:29-44 and rules adopted to implement it shall require approval by the department. Between the primary building line and the reference line, no alteration shall extend the structure closer to the public water, except that the addition of a deck or porch is permitted up to a maximum of 12 feet towards the reference line.

The Comprehensive Shoreland Protection Act
RSA 483-B

II. When reviewing requests for the redevelopment of sites that contain nonconforming structures erected prior to July 1, 1994, the commissioner shall review proposals which are more nearly conforming than the existing structures, and may waive some of the standards specified in RSA 483-B:9, so long as there is at least the same degree of protection provided to the public waters. For the purposes of this section, a proposal that is "more nearly conforming" means a proposal for significant changes to the location or size of existing structures that bring the structures to greater conformity, or a proposal for changes to other aspects of the property, including but not limited to stormwater management, wastewater treatment or traffic volume or flow, or both types of proposal which significantly improve wildlife habitat or resource protection.

Source. 1991, 303:1. 1992, 235:20. 1994, 383:16, 17, eff. July 1, 1994. 1996, 17:6,
eff. June 14, 1996.

483-B:12 Shoreland Exemptions:

I. The governing body of a municipality may, in its discretion, request the commissioner to exempt all or a portion of the protected shoreland within its boundaries from the provisions of this chapter if the governing body finds that special local urbanization conditions exist in the protected shoreland for which the exemption is sought.

II. If the governing body of a municipality requests such an exemption, it shall submit evidence of existing and historical patterns of building and development in the protected shoreland. Such evidence shall address:

- (a) Current and past building density.
- (b) Commercial or industrial uses.
- (c) Municipal or other public utilities.
- (d) Current municipal land use regulations which affect the protected shoreland.
- (e) Any other information which the commissioner may reasonably require.

III. With the advice of the office of state planning, the commissioner shall approve or deny the request for an exemption and shall issue written findings in support of his decision. A request for an exemption shall be approved only if the municipality demonstrates, using the evidence required under paragraph II, that special conditions of urbanization exist along the portion of shoreland to be exempted.

IV. The state port authority may request an exemption under this section for all or a portion of any land purchased, leased, or otherwise acquired by it pursuant to RSA 271-A.

Source. 1991, 303:1.

483-B:13 Public Hearing and Notice to Abutter:

[Repealed 1992, 235:28, II, eff. Jan. 1, 1993.]

483-B:14 Rehearings and Appeals:

The Comprehensive Shoreland Protection Act
RSA 483-B

Where the requirements of this chapter amend the existing statutory authority of the department or other agencies relative to certain established regulatory programs and shall be enforced under these established regulatory programs, the existing procedures governing contested cases and hearings and appeals regarding these requirements shall apply. Where requirements of this chapter are new and do not amend existing statutory authority relative to any established regulatory programs, the procedures set forth in RSA 541-A:31 for contested cases shall apply.

Source. 1991, 303:1. 1992, 235:24. 1994, 412:51, eff. Aug. 9, 1994.

483-B:15 Gifts, Grants and Donations:

The department is authorized to solicit, receive, and expend any gifts, grants, or donations made for the purposes of this chapter. Gifts of land or easements shall be assigned to the department of resources and economic development for management or assignment to another state agency or other public body, as appropriate.

Source. 1991, 303:1, eff. July, 1994.

483-B:16 Assistance to Municipalities; Office of State Planning:

The office of state planning may assist municipalities with the implementation of local ordinances under this chapter, upon the request of an individual municipality.

Source. 1991, 303:1, effective July 1, 1994.

483-B:17 Rulemaking:

The commissioner shall adopt rules, pursuant to RSA 541-A, relative to:

- I. The content and structure of all forms, applications and permits to be received or issued by the department under this chapter, including information and other materials to be submitted by an applicant.
- II. Procedures for filing and review of requests for urbanized shoreland exemptions and standards for granting urbanized shoreland exemptions, including time frames for decisions.
- III. Enforcement of the minimum shoreland standards, including methods and timing of inspection and coordination with municipalities.
- IV. Procedures and criteria for the placement of small accessory structures such as storage sheds and gazebos, the size, placement, and construction of which is consistent with the intent of this chapter, between the reference line and the primary building line.
- V. Criteria governing the assessment of administrative fines.
- VI. Criteria governing low phosphate, slow release nitrogen fertilizer.
- VII. Criteria governing maintaining a healthy, well-distributed stand of trees, saplings, shrubs and ground covers.
- VIII. A methodology for identifying unsafe trees.

The Comprehensive Shoreland Protection Act
RSA 483-B

IX. Defining the opening for building construction.

X. Definitions of terms not defined in this chapter.

Source. 1991, 303:1. 1992, 235:25. 1994, 383:18, eff. July 1, 1994. 1996, 100:2, eff. May 15, 1996.

483-B:18 Penalties:

I. The following shall constitute a violation of this chapter:

- (a) Failure to comply with the provisions of this chapter.
- (b) Failure to obey an order of the commissioner or a municipality issued relative to activities regulated or prohibited by this chapter.
- (c) Misrepresentation by any person of a material fact made in connection with any activity regulated or prohibited by this chapter.

II. Any person who violates this chapter and any person who purchases land affected by a violation of this chapter who knew or had reason to know of the violation shall be liable for remediation or restoration of the land affected.

III. Persons violating the provisions of this chapter shall be subject to the following:

- (a) Upon petition of the attorney general or of the municipality in which the violation occurred, the superior court may levy upon any person violating this chapter a civil penalty in an amount not to exceed \$20,000 for each day of each continuing violation. The superior court shall have jurisdiction to restrain a continuing violation of this chapter, and to require remediation.
- (b) Any person who knowingly violates any provision of this chapter, or any rule adopted or order issued under this chapter or any condition of any permit issued under this chapter shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person, and, notwithstanding RSA 651:2, may in addition to any sentence of imprisonment, probation or conditional discharge, be fined not more than \$20,000 for each violation if found guilty pursuant to this section. Each day of violation shall constitute a separate offense.
- (c) The commissioner, after notice and hearing pursuant to RSA 541-A, shall impose an administrative fine of up to \$5,000 for each offense upon any person who violates this chapter. Rehearings and appeals relating to such fines shall be governed by RSA 541. Imposition of an administrative fine under this section shall not preclude the imposition of further civil or criminal penalties under this chapter.
- (d) Notwithstanding of the \$5000 fine limit in subparagraph (c), the administrative fine for each repeat violation of this chapter may be multiplied by a factor of 2 for every previous violation committed by the person or entity.

Source. 1991, 303:1. 1994, 383:19, eff. July 1, 1994.

483-B:19 Applicability:

The Comprehensive Shoreland Protection Act
RSA 483-B

I. Subject to paragraph II, the provisions of this chapter shall not apply to any applicant whose land is in a municipality that has adopted a shoreland protection ordinance under RSA 674:16, the provisions of which are at least as stringent as similar provisions in this chapter. The director of the office of state planning shall certify to the commissioner that the provisions of a local ordinance are at least as stringent as similar provisions in this chapter.

II. If a municipality has a local ordinance that does not contain a counterpart to all of the provisions of this chapter, the more stringent measure shall apply.

Source. 1991, 303:1. 1992, 235:26. 1994, 383:20, eff. July 1, 1994.

483-B:20 Designated Rivers:

The provisions of this chapter shall not apply to rivers or river segments designated by the general court and approved for management and protection under RSA 483 prior to January 1, 1993 with the exception of the Connecticut River.

Source. 1994, 383:21, eff. July 1, 1994.

Shoreland Protection Administrative Rules

Env-Ws 1400

Table of Contents

CHAPTER Env-Ws 1400 SHORELAND PROTECTION	18
Part Env-ws 1401 Purpose And Applicability	18
Part Env-ws 1402 Definitions	18
Part Env-ws 1403 Enforcement Of The Natural Woodland Buffer	18
Part Env-ws 1404 Erosion And Sedimentation	20
Part Env-ws 1405 Placement And Size Of accessory Structures	20
Part Env-ws 1406 Nonconforming Structures	20
Part Env-ws 1407 Variance From The Minimum Standards	21
Part Env-ws 1408 Urbanized Shoreland Exemption	21
Part Env-ws 1409 Shoreland Protection Certification	22
Administrative Rule Changes to Part Env-Ws 1002:	23
Administrative Rule Changes to Part Env-Ws 1003.04:	24
Administrative Rule Changes to Part Env-Ws 1003.05:	24
chapter Env-c 611 Fines Relating To Development Within The Protected Shoreland	24

Shoreland Protection Administrative Rules
Part Env-Ws 1400

CHAPTER Env-Ws 1400 SHORELAND PROTECTION

Statutory Authority: RSA 483-B:17

Part Env-ws 1401 Purpose And Applicability

Env-Ws 1401.01 Purpose. The purpose of these rules is to implement RSA 483-B, the comprehensive shoreland protection act.

Env-Ws 1401.02 Applicability. These rules shall apply to all land areas subject to RSA 483-B, namely, all land areas:

- (a) Within 250 feet, horizontal distance, of the natural mean high water level of natural fresh water bodies without artificial impoundments listed in the official list of public waters published by the department;
- (b) Within 250 feet, horizontal distance, of the water line at full pond as determined by the elevation of the top of the impoundment structure of artificially impounded fresh water bodies listed in the official list of public waters;
- (c) Within 250 feet, horizontal distance, of the highest observable tide line of coastal waters; and
- (d) Within 250 feet, horizontal distance, of the ordinary high water mark of rivers, meaning all year-round flowing waters of fourth order or higher, as shown on the current version of the U.S. Geological Survey topographic maps as defined in RSA 483-B:4, XVI (c), excluding those land areas exempted by RSA 483-B:20.

Part Env-ws 1402 Definitions

Env-Ws 1402.01 Statutory Definitions. Any term used in these rules shall have the same meaning as in RSA 483-B:4.

Env-Ws 1402.02 Additional Definitions. In addition to the statutory definitions, the following definitions shall apply:

- (a) "Fertilizer" means any substance containing one or more recognized plant nutrient(s) which is used primarily for its plant nutrient content and which is designed for use or claimed to have value in promoting plant growth.
- (b) "Non-conforming lot" means a lot that does not meet current state or local subdivision, zoning, or other lot size or setback requirements.

Part Env-ws 1403 Enforcement Of The Natural Woodland Buffer

Env-Ws 1403.01 Well-Distributed Stand. If ordered by the department to restore a well-distributed stand of trees, saplings, shrubs and ground cover, the violator shall submit a restoration plan for approval that describes:

Shoreland Protection Administrative Rules
Part Env-Ws 1400

- (a) The species of plants proposed for replanting;
- (b) The number of plants proposed for replanting;
- (c) The basal area of the trees proposed for replanting;
- (d) The existing trees within the natural woodland buffer; and
- (e) The existing and proposed structures, including but not limited to the primary building, accessory structures, and water-dependent structures.

Env-Ws 1403.02 Plan Approval. The department shall approve plans that meet the following criteria:

- (a) Replacement plantings shall meet one of the following:
 - (1) Replacement plants shall consist of the species that are as close as possible to the species present prior to vegetation removal; or
 - (2) At least 75 percent of the replacement plants shall be chosen from the natural woodland buffer plantings list included as appendix *D*.
- (b) Replacement plants shall have spatial and compositional diversity that replicates a natural woodland buffer.
- (c) Replacement and remaining trees shall comprise at least 50 percent of the basal area that existed prior to cutting.
- (d) Replacement trees shall be placed no further apart than 10 feet on center.
- (e) There shall be no changes to surface drainage unless a sediment and erosion control plan is submitted and approved. The sediment and erosion control plan shall be submitted with the restoration plan and shall meet the requirements specified in Env-Ws 415.

Env-Ws 1403.03 Opening for Building Construction.

- (a) Subject to (b) below, the opening for building construction shall be measured on the horizontal plane as the area extending 25 feet from access roads, driveways and other impervious surfaces, septic systems and all structures except accessory structures.
- (b) Between the primary building line and the reference line, the opening shall be measured on the horizontal plane as the area extending 15 feet from access roads, driveways and other impervious surfaces, septic systems and all structures except accessory structures .
- (c) The opening for construction of an accessory structure shall be measured as the area extending 10 feet outward from the footprint of the accessory structure.
- (d) The property owner shall stake the building(s) footprint(s) in the field.

Env-Ws 1403.04 Trees Outside Building Construction Opening.

- (a) Any tree located outside the opening for building construction shall be counted in the basal

Shoreland Protection Administrative Rules
Part Env-Ws 1400

area percentage limitation calculations, subject to RSA 483-B:9, V(a)(2)(D).

(b) For purposes of determining compliance with RSA 483-B:9, V(a)(2)(A), only those areas outside the opening for building construction shall be considered.

Part Env-ws 1404 Erosion And Sedimentation

Env-Ws 1404.01 Compliance. Pursuant to RSA 483-B:9, V(c), construction, earth moving or other significant alteration of the characteristics of the terrain within the protected shoreland shall comply with RSA 485-A:17 and Env-Ws 415.

Part Env-ws 1405 Placement And Size Of accessory Structures

Env-Ws 1405.01 Applicability. Requirements of this part shall apply to accessory structures located between the reference line and the primary building line, including but not limited to storage sheds, wells, pump houses and gazebos.

Env-Ws 1405.02 Construction. Accessory structures shall be:

- (a) Constructed only if allowed by local zoning; and
- (b) Constructed in accordance with the local building code.

Env-Ws 1405.03 Status. Accessory structures shall:

- (a) Not exceed 20 feet in height; and
- (b) Have a footprint no larger than 150 square feet.

Env-Ws 1405.04 Setback.

(a) Subject to (b) below, all accessory structures built after the effective date of these rules shall be set back at least 20 feet from the reference line.

(b) The minimum 20-foot setback shall not apply to structures that require direct access to the water as an operational necessity, including but not limited to piers, docks, boathouses, retaining walls, pump houses, wells and other functionally water-dependent structures.

Env-Ws 1405.05 Placement. No accessory structure shall be built on land having greater than 25% slope.

Part Env-ws 1406 Nonconforming Structures

Env-Ws 1406.01 Replacement of Nonconforming Primary Buildings Damaged by Accidental Means. Any nonconforming structure damaged by accidental means shall be rebuilt, repaired or removed within one year of the date of the accident.

Env-Ws 1406.02 Replacement of Nonconforming Primary Buildings Other Than Those Damaged By Accidental Means. The replacement of any nonconforming primary structure shall be at least as far back as the primary building line.

Shoreland Protection Administrative Rules
Part Env-Ws 1400

Env-Ws 1406.03 Decks and Porches of Nonconforming Structures. Decks and porches located between the primary building line and the reference line shall not be converted to become part of the primary living space.

Part Env-ws 1407 Variance From The Minimum Standards

Env-Ws 1407.01 Information required for a variance request. Each applicant for a variance under RSA 483-B:9, V(g) shall provide the following information on a form obtained from the department:

- (a) Name of landowner;
 - (b) Mailing address of landowner;
 - (c) Location of subject parcel and tax map number;
 - (d) Description of the lot with sketch showing surface waters and the reference line;
 - (e) A specific reference to the chapter or rules for which a variance is being sought;
 - (f) A full explanation of the development for which a variance is sought;
 - (g) Pursuant to RSA 483-B:9, V(g), the reason for requesting a variance based on the criteria which govern the grant of a variance by a zoning board of adjustment under RSA 674:33, I(b); and
 - (h) Evidence that the criteria specified in (g) above have been met.
- Env-Ws 1407.03 Local Notification. Each applicant for a variance shall submit a copy of the information required by Env-Ws 1407.02 to the local governing body, at the time of submittal to the department.

Env-Ws 1407.04 Findings. The department shall approve a request for variance upon finding that the proposal is adequate to ensure that the intent of RSA 483-B is met and that the criteria for granting a variance under RSA 674:33 have been met.

Env-Ws 1407.05 Reason for Denial. No variance shall be granted which, in the judgement of the department, contravenes the intent of RSA 483-B or any rule.

Part Env-ws 1408 Urbanized Shoreland Exemption

Env-Ws 1408.01 Exemption. Pursuant to RSA 483-B:12(I), the governing body of a municipality may, in its discretion, request the commissioner to exempt all or a portion of the protected shoreland within its boundaries from the provisions of this chapter if the governing body finds that special local urbanization conditions exist in the protected shoreland for which the exemption is sought.

Env-Ws 1408.02 Evidence.

- (a) Pursuant to RSA 483-B:12(II), the municipality shall present evidence of existing and historical patterns of building and development in the protected shoreland, which shall address

Shoreland Protection Administrative Rules
Part Env-Ws 1400

the following:

- (1) Current and past building density;
 - (2) Current commercial or industrial uses;
 - (3) Municipal or other public utilities; and
 - (4) Current municipal land use regulations which affect the protected shoreland.
- (b) The municipality shall also provide:
- (1) The number of structures in sight from the waterbody;
 - (2) Density allowed under current local zoning ordinances;
 - (3) Extent of non-residential land use currently existing; and
 - (4) If available, a recent aerial photograph of the area.

Env-Ws 1408.03 Delivery. The applicant shall send the evidence directly to the office of state planning with a copy to the commissioner.

Env Ws 1408.04 Time Frames for Decisions.

- (a) Provided the office of state planning notifies the applicant in writing of the reasons for the extension, the office of state planning may take up to an additional 30 working days to perform the review.
- (c) The commissioner shall approve the request if the evidence required in Env-Ws 1408 shows that the municipality has existing and historical patterns of building and development in the protected shoreland.
- (d) The commissioner shall issue findings in support of the decision within 30 working days from receipt of the recommendation.

Part Env-ws 1409 Shoreland Protection Certification

Env-Ws 1409.01 Other Department Permits.

- (a) Pursuant to RSA 483-B:6, any person applying for any of the following permits shall submit the certification application as specified in (b):
 - (1) Wetlands permit pursuant to RSA 482-A.
 - (2) Individual sewage disposal system pursuant to RSA 485-A:29.
 - (3) Subdivision permit pursuant to RSA 485-A:29.
 - (4) Alteration of terrain permit pursuant to RSA 485-A:17.
- (b) Applicants for any permit listed in (a) above shall, at the time of filing the permit application, also provide the following information on a form obtained from the department:

Shoreland Protection Administrative Rules
Part Env-Ws 1400

- (1) Name of agent or applicant;
 - (2) Town in which the project is proposed;
 - (3) The tax map, block, and lot number;
 - (4) Subdivision name; and
 - (5) The answers to the following questions:
 - A. “Will the project for which a permit is hereby requested involve construction, land clearing, or other development within the protected shoreland as defined by RSA 483-B: 4, XV? Answer yes or no.”;
 - B. “If the project involves construction, land clearing, or other development within the protected shoreland, will it meet or exceed the development standards of RSA 483-B? Answer yes or not applicable.”; and
 - (6) “If the answer to b. above is “not applicable”, state why.”
- (c) The applicant shall agree to and sign the following: “ As owner or agent for the owner of the subject property, by my signature below I certify that: My responses to questions above are correct to the best of my knowledge. I am familiar with the requirements of RSA 483-B and have knowledge of the development activities which will be undertaken. The plans and other information submitted with this permit application provide a complete description of the project and demonstrate how compliance will be accomplished. I understand that false information given in this certification may result in revocation of any permit granted by the department of environmental services as a result of this application. I also understand that RSA 483-B:18 provides that violations subject the responsible party to remediation or restoration of the land affected, fines up to \$20,000 for each day of continuing violation, imprisonment and other penalties.”

Administrative Rule Changes to Part Env-Ws 1002:

Env-Ws 1002.28 “Natural woodland buffer” means “natural woodland buffer” as defined by RSA 483-B:4, XI.

Env-Ws 1002.31 “Primary building line” means “primary building line” as defined in RSA 483-B:9, II(b).

Env-Ws 1002.32 “Protected shoreland” means “protected shoreland” as defined by RSA 483-B: 4, XV.

Env-Ws 1002.35 “Reference line” means “reference line” as defined by RSA 483-B:4, XVII.

Env-Ws 1002.36 “Restrictive layer” means a soil horizon that restricts the downward flow of water and is uncharacteristic of the soil layers above and below, such as a layer of soil with a consistence of firm or very firm, cemented horizons, or stratified layers of silt, loam or clay within the soil profile.

Shoreland Protection Administrative Rules
Part Env-Ws 1400

Env-Ws 1002.39 “Shoreland frontage” means the average of the distances of the actual natural shoreline footage and a straight line drawn between property lines.

Administrative Rule Changes to Part Env-Ws 1003.04:

- (r) If the lot is within the protected shoreland, the following additional information :
- (1) Length of shoreland frontage, if the development is residential;
 - (2) Lot width, if the development is commercial; and
 - (3) The topography of an area equal to or greater than the lot size determined by Env-Ws 1005.02 for each lot.

Administrative Rule Changes to Part Env-Ws 1003.05:

- (ae) If the lot is within the protected shoreland the following additional information :
- (1) The reference line;
 - (2) The primary building line;
 - (3) Distance and location of nearest surface waters in relation to disposal system unless the nearest surface waters is greater than 125 feet away; and
 - (4) A designation on the plan of the limits of the natural woodland buffer.

Chapter Env-c 611 Fines Relating To Development Within The Protected Shoreland

Statutory Authority: RSA 483-B:17

Env-C 611.01 Definitions.

Any term used in these rules shall have the same meaning as in the law or rule to which the fine relates.

Env-C 611.02 Water Quality Violations.

Determination of a water quality violation shall be done in accordance with Env-Ws 430.

Env-C 611.03 Fines Relating to Salt Storage Yards, Auto Junk Yards and Solid or Hazardous Waste facilities.

For violations relating to RSA 483-B:9 regarding salt storage yards, auto junk yards, and solid or hazardous waste facilities, the fine shall be \$2,000 if not resulting in water quality violations and \$2,500 if resulting in water quality violations.

Env-C 611.04 Fines Relating to Construction of Primary Structures.

- (a) For violations relating to construction of a primary structure between the reference line and the primary building line, the fine shall be \$3,000.

Shoreland Protection Administrative Rules
Part Env-Ws 1400

(b) For violations relating to construction of an addition that extends the structure closer to the public waters, except the addition of an open deck or porch up to a maximum of 12 feet towards the reference line pursuant to RSA 483-B:11, II, the fine shall be \$2000.

(c) For violations relating to the enclosure of an open deck or porch, located between the reference line and the primary building line, the fine shall be \$2000.

Env-C 611.05 Fines Relating to Fertilizer Use Within the Protected Shoreland.

For use of fertilizers not in accordance with RSA 483-B, the fine shall be \$500 if not resulting in water quality violations and \$1000 if resulting in water quality violations.

Env-C 611.06 Fines Relating to the Natural Woodland Buffer.

(a) For building construction of an accessory structure in the natural woodland buffer zone not in accordance with Env-Ws 1400, the fine shall be \$2,000.

(b) For each stump removed within 50 feet of the reference line, the fine shall be \$1,000 if not resulting in water quality violations and \$1,500 if resulting in water quality violations.

(c) For failure to maintain a well-distributed stand within the 150 foot natural woodland buffer zone the fine shall be \$4,000 if not resulting in water quality violations and \$4,500 if resulting in water quality violations.

(d) For failure to maintain a 50% basal area within the 150 foot natural woodland buffer zone the fine shall be \$4,000 if not resulting in water quality violations and \$4,500 if resulting in water quality violations.

Env-C 611.07 Fines Relating to Failure to Comply With An Order.

For failing to comply with a department order, the fine shall be \$2,000.

Env-C 611.08 Failure to Pay Fines.

For failure to pay a fine imposed in accordance with these rules, the fine shall be 10% of the amount of the originally-imposed fine per month or portion thereof for any part of an unpaid fine. Fines for failure to pay a fine shall be imposed in accordance with these rules.

Env-C 603.02 Fines Relating to Alteration of Terrain.

For violations relating to RSA 485-A:17, Env-Ws 415, RSA 483-B, and Env-Ws 1400 regarding alteration of terrain, the amount of the administrative fine shall be as follows:

(g) For construction, earth moving or other activities resulting in the significant alteration of 50,000 sq. ft. or greater of the terrain within the protected shoreland without a permit:

(1) \$3,000 if the activities have not caused a water quality violation; and

(2) \$3,500 if the activities have caused a water quality violation;

(h) For construction, earth moving or other activities within the protected shoreland for which

Shoreland Protection Administrative Rules
Part Env-Ws 1400

a permit has been obtained but which is not in conformance with the conditions of the permit:

- (1) \$2,000 if the activities have not caused a water quality violation; and
- (2) \$2,500 if the activities have caused a water quality violation;
- (i) Failure to design and construct new structures to prevent erosion of exposed soils:
 - (1) \$1,000 if the activities have not caused a water quality violation; and
 - (2) \$1,500 if the activities have caused a water quality violation.

Env-C 604.01 Fines Relating to Subdivisions.

For violations of RSA 485-A [and], Env-Ws 1000, RSA 483-B, and Env-Ws 1400 relating to subdivisions, the amount of the administrative fine shall be as follows:

- (e) For commencing road construction on, clearing vegetation from, placing fill on or otherwise altering a parcel of land within the protected shoreland for which plans are required to be submitted pursuant to RSA 483-B:9 prior to obtaining approval of the subdivision plan, \$2,000.

Env-C 604.02 Fines Relating to Septic Systems.

For violations of RSA 485-A, Env-Ws 1000, RSA 483-B:9, and Env-Ws 1400 relating to septic systems, the amount of the administrative fine shall be as follows:

- (r) For failure to meet the required setback requirements for all new leaching portions of new septic systems, \$2,000.

Index

A

Abutter
 Defined 3
Accessory structure 9, 14, 19, 20
 Defined 3
 Fines 25
 Footprint 20
 Height 20
 Opening 19
 Setback 20
 Slope 20
 Water Dependant 20
Agriculture 3, 8, 9
Alteration of nonconforming structures 12
Alteration of Terrain 7, 11
 Certification 22
 Fines 25
Appeals 13–16, 15
Applicability 15–16
Applications 14
Aquatic life 2
Archaeological and historical resources 2
Artificial impoundments 5, 18
 Reference Line Defined 5
Automobile junk yards 8
 Fines 24

B

Bank alteration 7
Basal area 9, 19
 Defined 3
 Fines 25
Beach replenishment 7
Birds, Habitat 2
Breakwaters 8

C

Cease and desist orders 8
Chemical pollution 9
Civil penalties 15
Cluster subdivision 11
Coastal waters 18
 Defined 5
 Reference Line Defined 5
Coastal wetlands 2
Commercial fishing 2

Commissioner
 Defined 4
Common ownership 12
Conditions 7
Condominium development 11
Conflict with other local or state laws 3
Connecticut River 16
Consistency 3–16
Construction 11
 Fines 24, 25, 26
Conversion 21
Court, superior 15

D

Dam Safety 9
Dead trees 10
Decks 12, 21
 Fines 25
Definitions 3–16, 18, 23
Department
 Defined 4
Designated Rivers 16
Development outside the protected shoreland 8
Diseased trees 10
Disturbed area
 Defined 4
Docks 8
Donations 14
Drainage structures 9

E

Earth excavation 7
Economic development 3
Enforcement 6–16, 14
 By Commissioner 6
 Woodland buffer 6
Erosion 2, 9, 10, 19, 20
 Fines 26
Exemptions 13–16
Expansion of nonconforming structures
 Fines 25

F

Fallen trees 10
Felony 15
Fertilizer 8, 14
 Defined 18
 Fines 25
Fines 14, 24
 Administrative 15

Index

Failure to pay 25
 Fish habitat 9
 Fish spawning grounds 2
 Flooding 2
 Forest management 9
 Forms 14
 Fourth order or higher streams 5, 10, 18
 Defined 5
 Reference Line Defined 5
 Fresh water 4

G

General Court 2
 Gifts 14
 Grants 14
 Grass 8
 Great Bay Estuary 5
 Great ponds 5
 Ground cover 9, 18
 Defined 4

H

Hazardous waste facilities 8
 Fines 24
 Healthy well-distributed stand 9, 18
 Fines 25
 Hydro electric facilities 9

I

Individual building lots 11
 Inspection authority 6

J

Joint code enforcement 8
 Jurisdiction 15

L

Land use control ordinances 7
 Lawns 8
 Limestone 8
 Local Authority
 Approvals 7
 Building code 20
 Coordination 6
 Enforcement 6
 Ordinances 14, 16
 Participation 7–16
 Permits 3
 Urbanization 13

Lot of record
 Defined 4
 Lot width 24

M

Minimum lot size 11–12
 Minimum standards 2–16, 8–16
 Misdemeanor 15
 Misrepresentation 15
 Monitoring wells 9
 Municipalities, Assistance to 14
 Municipality 13
 Defined 4
 Municipal authority 7–16
 Municipal sewers 11

N

Native or naturalized species 19
 Natural beauty 3
 Natural fresh water bodies 18
 Reference Line Defined 5
 Natural Resources Conservation Service 10
 Natural woodland buffer 9–12, 18
 Defined 4, 23
 Fines 25
 Nitrogen fertilizer 8
 Non-residential development 11
 Nonconforming Lots of Record 12–16
 Defined 18
 Nonconforming Structures 20
 Accidental damage 20
 Demolition 20
 Replacement of 20
 Nonconforming structures 12–16
 Expansion 12
 Renovation 12
 Repair 12
 Defined 5
 Replace in kind 12
 Defined 5
 Nutrients 9

O

Office of State Planning 14, 16
 On-site inspections 7–16
 Opening for building construction 10, 19
 Order 7, 15
 Failure to comply 25
 Ordinary high water mark
 Defined 4

Index

P

Patios 12, 21
 Fines 25
 Penalties 15–16
 Penalties, criminal 15
 Permits 7–16
 Person
 Defined 4
 Piers 8
 Pipes 8
 Plan Approval 19
 Porches 12, 21
 Fines 25
 Port authority 13
 Primary building line 8, 19
 Defined 4, 23
 Primary structures 8, 19
 Defined 4
 Fines 24
 Prior approval 7–16
 Private water supply facilities 8
 Protected shoreland 9
 Defined 4, 23
 Public health, safety, and the general welfare 2
 Public interest 2
 Public utility lines 9
 Public waters 2
 Defined 4
 Public water supply facilities 8
 Pump houses 20
 Pump stations 8
 Purpose 2, 18

R

Redevelopment 13
 Reference line 10
 Defined 5, 23
 Remediation 15, 19
 Removal or removed
 Defined 5
 Repeat violation
 Defined 5
 Replacement plantings 19
 Replacement septic systems 10
 Replacement system defined 5
 Replanting 19
 Residential units 11
 Defined 6
 Restrictive layers 10
 Defined 23

Root systems 9, 10
 Rulemaking 14–16
 Rules 18
 Rule changes 23, 24
 Runoff 11

S

Salt storage 8
 Fines 24
 Sapling 9, 18
 Defined 6
 Scenic beauty 3
 Scientific study 3
 Sediment 19
 Septic systems 7, 10–12, 12
 Fines 26
 Setback 10
 Tanks 10
 Sewage treatment facilities 8
 Shoreland frontage 11, 24
 Defined 6, 24
 Shoreland Protection Certification 22
 Shrub 18
 Defined 6
 Solid waste facilities 8, 9
 Fines 24
 Species 19
 State agencies 3
 Statutory Authority 18
 Storage sheds 20
 Strahler method 5
 Structures 10
 Defined 6
 Fines 24
 Stumps 10
 Fines 25
 Subdivision 7, 10, 11
 Certification 22
 Defined 6
 Fines 26
 Subsurface Systems Bureau 7, 10
 Certification 22

T

Tidal rivers 5
 Topography 24
 Tree 9, 18
 Defined 6
 Tree canopy 9
 Turbidity 9

Index

U-Z

U

- Understory 9
- Unsafe trees 10
- Urbanization
 - Defined 6
- Urbanized shoreland exemptions 14, 21
 - Delivery 22
 - Evidence 21
 - Time frames for decisions 22

V

- Variances 12, 21
 - Approval 21
 - Denial 21
 - Findings 21
 - Local notification 21
- Violation 15, 18

W

- Waste permit 9
- Waterfront parcels 12
- Waters of the state 8
- Water dependent structures 7, 8, 12, 19, 20
 - Defined 6
- Water pollution 2
- Water quality violations
 - Fines 24
- Water supply intakes 8
- Water supply reservoir watershed management 9
- Water temperatures 9
- Water treatment facilities 8
- Wells 20
- Wetlands Bureau 7, 8
 - Permit Certification 22
- Wharf 8
- Wildlife habitat 3, 9, 10
- Wildlife habitats 2

Z

- Zoning board of adjustment 12, 21

